

THE CITY OF NEW YORK  
**LAW DEPARTMENT**

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**BY FACSIMILE**

February 4, 2008

The Honorable Richard J. Sullivan  
United States District Judge  
Daniel Patrick Moynihan United States Courthouse  
500 Pearl Street, Room 615  
New York, New York 10007

Re: Adams v. City of New York, 05-CV-9484 (RJS) (JCF)  
Abdell v. City of New York, 05-CV-8453 (RJS) (JCF)  
Phillips v. City of New York, 05-CV-7624 (RJS) (JCF)  
Sikelianos v. City of New York, 05-CV-7673 (RJS) (JCF)  
Tikkun v. City of New York, 05-CV-9901 (RJS) (JCF)

Dear Judge Sullivan:

Defendants fax this letter with permission of Your Honor's Law Clerk, Adam. In the captioned matters, plaintiffs have taken numerous Rule 72 appeals from orders of Magistrate Judge Francis dismissing their emotional distress claims. Your Honor previously consolidated the briefing schedules on these appeals, so that all appeals could be addressed by defendants in a single consolidated brief and considered by the Court at the same time. In light of recent developments set forth below, the parties now jointly request permission to consolidate an additional appeal for the same reasons.

Currently, a motion to dismiss the emotional distress claims of Abdell plaintiff Katherine Poe is fully submitted before Magistrate Francis. Plaintiff Poe has refused to produce mental health discovery and the parties anticipate that Magistrate Francis will dismiss her emotional distress claims shortly. Mr. Spiegel, plaintiff Poe's counsel, has indicated that he will appeal that order on the same grounds asserted in the currently pending appeals.

Accordingly, the parties jointly request that the Court consolidate the briefing related to this additional Abdell plaintiff. In accordance with the terms of Your Honor's last order, defendants propose filing a consolidated opposition to plaintiffs' Rule 72 objections 20 days

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after Magistrate Judge Francis' order regarding plaintiff Poe. Thereafter, the parties will propose a deadline for any reply papers.

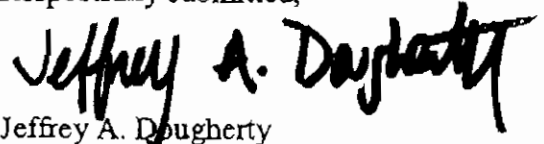
Defendants also request permission to file a memorandum of law up to 30 pages in length. Defendants request additional pages because they will be discussing the procedural history of five different actions and issues relating to numerous plaintiffs within those actions. Plaintiffs' counsel has consented to this request.

Defendants also request permission to file their appeal papers under seal. Defendants will be referring to the record in these cases. Many of the parties' letters leading to Magistrate Francis' orders dismissing emotional distress claims were submitted under seal or referred to material the parties designated as confidential under Protective Order #1. Plaintiffs' counsel has consented to this request.

For all of the foregoing reasons, the parties jointly request that the Court enter an order:

1. Consolidating the briefing schedules in the captioned actions, so that issues relating to the dismissal of the emotional distress claims of plaintiff Katherine Poe can be addressed jointly by defendants;
2. Permitting defendants to file a consolidated memorandum of law addressing all of these appeals within 20 days of Magistrate Judge Francis' forthcoming decision regarding plaintiff Poe;
3. Permitting defendants to file a 30 page memorandum of law; and
4. Permitting defendants to file their appeal under seal and ordering the Clerk of the Court to accept defendants' appeal for filing under seal.

Respectfully submitted,

  
Jeffrey A. Dougherty

cc: Hon. James C. Francis IV.  
Michael Spiegel, Esq.  
Jeffrey Rothman, Esq.  
Andrea Richie, Esq.

  
SO ORDERED  
DATE 2/6/08  
RICHARD J. SULLIVAN  
U.S.D.J.